

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 08-0730 WHA

Plaintiff,

v.

IVAN CERNA, *et al.*,

Defendants.

**ORDER SEALING *EX PARTE*
DECLARATION OF AUSA
LEUNG AND ORDERING
DISCLOSURE OF PORTIONS
OF *EX PARTE* DECLARATION**

In response to the August 11 order requiring an *in camera* submission regarding alleged grand jury misconduct, the government has submitted an *ex parte* declaration from Assistant United States Attorney Leung and requests sealing of the declaration and sealing application. This request is **GRANTED**. As the public filing of this order may indicate, however, the undersigned will not file any documents under seal — such as this order — unless there is a compelling reason to do so. This has already been explained in a prior order (Dkt. No. 2033).

Although the government's submission may be filed under seal, it contains legal briefing that is inappropriate for *ex-parte*, *in camera* review. The government is **ORDERED** to serve defense counsel for Moris Flores, Luis Herrera, Guillermo Herrera, and Rafael Montoya — the moving and joining defendants to the original motion — the following portions of the Leung declaration by **OCTOBER 4 at NOON**:

- (1) the first and last sentence of paragraph one;
- (2) paragraph three in its entirety;

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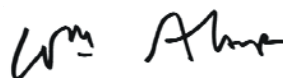
(3) the first two sentences of paragraph four; and

(4) the first five sentences of paragraph six.

Each of the aforementioned portions of the Leung declaration only contain legal arguments or statements of fact that are inappropriate for an *in camera*, *ex parte* submission.

IT IS SO ORDERED.

Dated: September 27, 2010.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE